



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 25th Antidumping Duty Administrative Review; 2018-2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting the 25th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (China). The period of review (POR) for the administrative review is November 1, 2018, through October 31, 2019. Commerce preliminarily determines that the only mandatory respondent for which a request for review remains, Shijiazhuang Goodman Trading Co., Ltd. (Goodman), failed to establish its eligibility for a separate rate and therefore is part of the China-wide entity. We also preliminarily find that the review request made by The Roots Farm Inc. (Roots Farm) was not valid, and accordingly have preliminarily rescinded the review with respect to the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni). We invite interested parties to comment on these preliminary results.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3945 or (202) 482-4956.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 2020, Commerce initiated the twenty-fifth administrative review of fresh garlic from China with respect to eleven companies.¹ On April 24, 2020, and July 21, 2020, Commerce tolled certain deadlines in administrative reviews by 50 days and 60 days, respectively, thereby extending the deadline for these preliminary results to November 19, 2020.² On October 20, 2020, Commerce extended the deadline for the preliminary results of this review.³ The revised deadline for the preliminary results is now March 19, 2021.

Scope of the Order

The products subject to the antidumping duty order are all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0000, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0050, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please *see* “Scope of the Order” in the accompanying Preliminary Decision Memorandum, hereby adopted by this notice.⁴

Partial Rescission of Administrative Review

On April 15, 2020, the sole review requests were timely withdrawn for five companies.⁵ Commerce is, therefore, partially rescinding this administrative review with respect to the

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020).

² See Memoranda, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020; and “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

³ See Memorandum, “Fresh Garlic from the People’s Republic of China – 25th Administrative Review (2018-2019): Extension of Deadline for the Preliminary Results of the Review,” dated October 20, 2020.

⁴ See Memorandum, “Decision Memorandum for the Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 2018-2019 Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ See Petitioners’ Letter, “25th Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China – Petitioners’ Partial Withdrawal of Review Request,” dated April 15, 2020.

companies listed in Appendix I, in accordance with 19 CFR 351.213(d)(1).

Preliminary Rescission of Administrative Review

In addition, as discussed at “Preliminary Rescission of Administrative Review” in the accompanying Preliminary Decision Memorandum, Commerce has preliminarily determined that the review request from Roots Farm was invalid, and is preliminarily rescinding the administrative review with respect to one mandatory respondent, Harmoni.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.214.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix IV to this notice.

China-Wide Entity

Commerce’s policy regarding conditional review of the China-wide entity applies to this administrative review.⁶ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity’s rate (*i.e.*, \$4.71/kg) is not subject to change. Aside from the companies for which the

⁶ *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

review is being rescinded or preliminarily rescinded, Commerce considers all other companies⁷ for which a review was requested, and which did not preliminarily qualify for a separate rate, to be part of the China-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

Preliminary Determination of Separate Rates for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, Commerce employed a limited examination methodology, as it determined that it would not be practicable to examine individually all companies for which a review request was made.⁸ There were two exporters of subject merchandise from China that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These two exporters are listed in Appendix III.

Neither the Act nor Commerce's regulations address the establishment of the rate applied to individual companies not selected for examination where Commerce limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce's practice in cases involving limited selection based on exporters accounting for the largest volume of imports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in a market economy investigation. Section 735(c)(5)(A) of the Act instructs Commerce to use rates established for individually investigated producers and exporters, excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations. In this administrative review, neither reviewed respondent received a weighted-average dumping margin. Therefore, for the preliminary results, Commerce has preliminarily determined to assign the separate-rate from the prior review,⁹ which was Goodman's calculated rate, to the non-selected separate-rate companies.

⁷ The companies that are part of the China-wide entity are Shijiazhuang Goodman Trading Co., Ltd.; Qingdao Maycarrier Import & Export Co., Ltd.; and Weifang Hongqiao International Logistics Co., Ltd.

⁸ *See* Memorandum, "2018-2019 Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China: Selection of Respondents for Individual Examination," dated February 20, 2020.

⁹ *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission, of the 24th Antidumping Duty Administrative Review; 2017-2018*, 85 FR 71049 (November 6, 2020).

Preliminary Results of Administrative Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2018, through October 31, 2019:

Exporter	Weighted-Average Margin (dollars per kilogram)
Shandong Happy Foods Co., Ltd.	4.34
Jining Alpha Food Co., Ltd.	4.34
China-Wide Entity ¹⁰	4.71

Public Comment and Opportunity to Request a Hearing

Pursuant to 19 CFR 351.309(c)(1)(ii), case briefs or other written comments may be submitted within thirty days after the date on which this notice is published in the *Federal Register*, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹¹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All electronically filed documents must be received successfully and timely in their entirety by Commerce's electronic records system, ACCESS.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

¹⁰ The companies that are part of the China-wide entity in this review are Shijiazhuang Goodman Trading Co., Ltd.; Qingdao Maycarrier Import & Export Co., Ltd.; and Weifang Hongqiao International Logistics Co., Ltd.

¹¹ See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

Commerce intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. Commerce intends to issue assessment instructions to CBP 35 days after the publication date of the final results of review.

Commerce announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the China-wide rate.¹²

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn

¹² For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required for that company); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary

for Enforcement and Compliance.

Appendix I

Companies for Which Administrative Reviews Have Been Rescinded

1. China Jiangsu International Economic Technical Cooperation Corporation
2. Hebei Holy Flame International
3. Jinxiang Qingtian Garlic Industries
4. Qingdao Ritai Food Co., Ltd.
5. Yingxin (Wuqiang) International Trade

Appendix II

Companies for Which Administrative Review Has Been Preliminarily Rescinded

1. Zhengzhou Harmoni Spice Co., Ltd.

Appendix III

Non-Selected Separate Rate Companies

1. Jining Alpha Food Co., Ltd.
2. Shandong Happy Foods Co., Ltd.

Appendix IV

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission of Administrative Review
- V. Discussion of Methodology
- VI. Recommendation

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